

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GARY ABERNATHY,

Plaintiff,

v.

Case No: 08-20103
Honorable Victoria A. Roberts

UNITED STATES OF AMERICA,

Defendant.

ORDER

This matter is before the Court on Gary Abernathy's Application for Prisoner to Proceed Without Prepayment of Fees or Costs. (Doc. 232). Mr. Abernathy appeals the Court's December 13, 2012 Order, which denied his motion to vacate his sentence under 28 U.S.C. § 2255. (Doc. 229).

The Court **DENIES** Mr. Abernathy's request to proceed on appeal in forma pauperis; the Court finds that an appeal from the December 13, 2012 Order would be frivolous and cannot be taken in good faith, 28 U.S.C. § 1915(a)(3), for the reasons stated in the December 13, 2012 Order.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: January 25, 2013

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 25, 2013.

S/Linda Vertriest
Deputy Clerk